

1984 WL 249982 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 18, 1984

\*1 Jesse H. Coles, Jr., Ph.D.  
Division Director  
Budget and Control Board  
406 Wade Hampton Building  
Columbia, South Carolina 29201

Dear Dr. Coles:

You have requested an opinion from our office on the following question: Does the term ‘initially beginning in 1986’ found in S. C. Code § 11-11-120 (1983, as amended) refer to fiscal year 1985-86 or fiscal year 1986-87? For the reasons set out hereinafter it is our opinion that the term ‘initially beginning in 1986’ found in S. C. Code § 11-11-120 (1983, as amended) refers to fiscal year 1985-86.

The fifth paragraph of S. C. Code § 11-11-120 was revised in 1983 to read as follows:

After 1990, the General Assembly shall not approve an annual General Fund Operating Budget in excess of ninety-five percent of the annual official revenue estimate. Provided initially beginning in 1986, the General Assembly shall annually reduce the annual General Fund Operating Budget by one percent until the annual General Fund Operating Budget is not in excess of ninety-five percent of the annual official revenue estimate. Revenues in excess of ninety-five percent of the annual official revenue estimate may be appropriated by the General Assembly in separate legislation to the general reserve fund or for the purpose of accelerating the retirement of state bonded indebtedness or for the purpose of avoiding the issuance of bonds for projects that are authorized but not issued.

The references to time limitations i.e. ‘After 1990’ and ‘initially beginning in 1986,’ do not expressly indicate the fiscal year to which they refer. In [State ex rel. Buchanan v. Jennings](#), 68 S.C. 411, 47 S.E. 683 (1904), the South Carolina Supreme Court interpreted the phrase ‘the year 1894’ to refer to the fiscal year ending in 1894. Speaking through Justice Woods the Court stated: It is important to determine whether the words ‘the year 1894’ referred to the calendar year or to the fiscal year, . . .

It is true that, where reference is made to a certain year, the presumption is that the calendar year is meant. But where a legislative body is acting under a Constitution providing a fiscal year different from the calendar year, it seems clear that its fiscal legislation should be referred to the constitutional fiscal year, and not the calendar year. We think this rule of interpretation should be adopted in the absence of any express legislative intention.

An examination of the statutes, however, will show the General Assembly has said by direct expression that it meant by ‘the year 1894’ to refer to the fiscal year 1984—that is, the fiscal year ending November 1, 1894. <sup>1</sup>

[68 S.C. at 416-17](#). An examination of the fifth paragraph of S. C. Code § 11-11-120 (1983, as amended) shows that the General Assembly meant to establish a time limit to implement and accomplish its stated goals. It is consistent with this specifically expressed legislative intent <sup>2</sup> and the decision of [State ex rel. Buchanan v. Jennings](#), *supra*, to read ‘1990’ to refer to fiscal year 1989-90 and to read ‘1986’ to refer to fiscal year 1985-86.

\*2 It is our opinion that the term 'initially beginning in 1986' found in the fifth paragraph of S. C. Code § 11-11-120 (1983, as amended) refers to fiscal year 1985-86.

Sincerely yours,

Charles W. Gambrell, Jr.  
Assistant Attorney General

Footnotes

- 1 At the time of this decision the fiscal year was from November 1 to October 31.
- 2 The cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent whenever possible. [Merchants Mut. Ins. Co. v. South Carolina Second Injury Fund](#), 277 S.C. 604, 291 S.E.2d 667 (1982); [Bankers Trust of South Carolina v. Bruce](#), 275 S.C. 35, 267 S.E.2d 424 (1980).

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